IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 21ST NOVEMBER 2006 / 30TH KARTHIKA 1928

WP(C).No. 28191 of 2006(F)

PETITIONER:

MATHEW, AGED 56 YEARS,S/O.KORAH, INJANATTIL HOUSE,
RESIDING AT ILLIKKATTIL HOUSE, MARIKA P.O.,
KOOTHATTUKULAM, MUVATTUPUZHA TALUK.

BY ADV. SRI.K.K.CHANDRAN PILLAI
SRI.SAVIN JOY.S.

RESPONDENTS:
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1. P.R.MOHANAN, S/O.RAGHAVAN, AGED ABOUT 45 YEARS,
VELLANKAL HOUSE, MARIKA, PALAKUZHA VILLAGE,
NOW RESIDING AT VI/221, OF MANJALLOOR GRAMA
PANCHAYATH, MANJALLOOR VILLAGE,MUVATTUPUZHA TALUK.

2. THRESSIA @ SALI,W/O.MOHANAN, RESIDING AT
VI/221 OF MANJALLOOR, GRAMA PANCHAYATH,
MANJALLOOR VILLAGE, MUVATTUPUZHA.

3. THE SUB INSPECTOR OF POLICE,
VAZHAKKULAM, MUVATTUPUZHA.

4. THE DEPUTY SUPERINTENDENT OF POLICE,MUVATTUPUZHA.

5. STATE OF KERALA, REP. BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM.

ADDL. 6. THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM.

" 7. THE DISTRICT SUPERINTENDENT OF POLICE,
(RURAL), ALUVA.

(ADDL. RESPONDENTS 6 AND 7 ARE IMPLEADED AS PER ORDER DATED 21.11.2006 IN I.A.NO.16227/2006)

BY ADV. SRI.H.SIVARAMAN
SRI.MATHEW CHERIAN
R3 TO R5 BY D.G.P.SRI.P.G.THAMPI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)28191/2006

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF SALE DEED NO.1158/03 DATED 7.10.2003 OF THE KALLOORKKAD SUB REGISTRY OFFICE.

EXT.P2: TRUE COPY OF SALE DEED NO.1402/03 DATED 2.12.2003 OF THE KALLOORKKAD SUB REGISTRY OFFICE.

EXT.P3: TRUE COPY OF LEASE AGREEMENT DATED 18.5.2006 EXECUTED BY THE 1ST RESPONDENT IN FAVOUR OF THE PETITIONER.

EXT.P4: TRUE COPY OF COMPLAINT DATED 3.10.2006 SUBMITTED TO THE 4TH RESPONDENT.

EXT.P5: TRUE COPY OF SALE DEED NO.1208/05 DATED 16.5.2005

EXT.P6: TRUE COPY OF SALE DEED NO.4026/05 DATED 11.7.2005 OF THE MUVATTUPUZHA SUB REGISTRY OFFICE.

EXT.P7: TRUE COPY OF SALE DEED NO.3626/06 DATED 26.6.2006 OF THE MOTOR VEHICLE ACCIDENT SUB-REGISTRY OFFICE.

RESPONDENTS' EXHIBITS:

EXT.R1(a): TRUE COPY OF THE AGREEMENT EXECUTED BETWEEN THE PETITIONER AND 2ND RESPONDENT DATED 25.5.2005.

// TRUE COPY //

TKS

J.B.KOSHY & K.PADMANABHAN NAIR, JJ.

W.P.(C)NO.28191 OF 2006

Dated 21st November, 2006

JUDGMENT

Koshy,J.

It is the case of the petitioner that he is the owner and in possession of five acres of property, the first respondent was allowed to reside in the property and he is committing waste by cutting and removing rubber trees. It is also submitted by the petitioner that respondents 1 and 2 are threatening him. There was a complaint that on behalf of respondents 1 and 2 police is also harassing him. We passed an order on 15.11.2006 that police shall not call the petitioner to the police station and police shall not harass him. Even if any crime is registered against the petitioner, it can be investigated strictly according to law. With regard to the allegation that first respondent and his supporters are committing waste by cutting and removing rubber trees, we direct the police to see that no waste is committed in the property and and no trees shall be cut or removed from the land in question without orders from the competent civil court. There was also a case that third respondent has threatened the petitioner. We have directed the Director General of Prosecutions to submit a report and he filed a report saying that those allegations are not

correct. However, we direct that police shall not threaten or harass the petitioner. With regard to the allegation regarding the ownership and possession of the property, eviction of the respondents 1 and 2 etc., we are of the opinion that the petitioner has to approach the civil court and get appropriate orders as we are unable to pass any orders with regard to such allegations in a petition under Article 226 of the Constitution of India. Without making any observation regarding the merits of the civil disputes, we direct the police to see that law and order is maintained and life of the petitioner is not endangered.

The writ petition is disposed of accordingly.

J.B.KOSHY
JUDGE

K.PADMANABHAN NAIR
JUDGE

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